

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1343

Citations Affected: IC 13-11-2; IC 13-18-12; IC 13-30-6; noncode.

Synopsis: Environmental notices, reports, penalties, and permits. Environmental notices, reports, penalties, and permits. Requires a publicly owned treatment works permittee that determines that an upset has occurred or is likely to occur and that the upset poses a threat to human health or animal life to notify the department of environmental management under certain circumstances, and requires the department to notify all appropriate state and local government agencies and the media, and to consider whether to provide technical assistance. Doubles the minimum and maximum criminal fine that may be imposed for a person who intentionally, knowingly, or recklessly violates certain environmental laws, rules, and standards. Doubles the maximum criminal fine that may be imposed, and establishes a minimum fine, for certain hazardous waste violations. Requires the department of environmental management to prepare a report concerning: (1) restoration of the White River; (2) means to reduce the probability of spills to sewage collection systems and to surface waters, to improve the timeliness and efficiency of protocols and procedures for notice to affected entities, and to improve emergency response procedure and interagency coordination for spills; and (3) identification of all contamination events since 1995 in which fish or other aquatic species were killed and in which civil penalties were imposed. Establishes the distribution of the report, and directs the environmental quality service council to study the report and make recommendations to the general assembly. Voids a subsection of a rule of the air pollution control board, subject to exceptions of certain specified types of construction or modification, that limits in certain circumstances the eligibility of the construction or modification of emission units, operations, or processes for exemption from the requirement to obtain a registration, permit, modification approval, or permit revision. Provides that the air pollution control board may not adopt limitations of that nature in the future. Directs the air pollution control board to amend the rule to reflect these provisions. (This conference committee report adds all of the provisions referred to above, except for those concerning a rule of the air pollution control board.)

Effective: Upon passage; July 1, 2000.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1343 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 13-11-2-177.5 IS ADDED TO THE INDIANA
- 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE UPON PASSAGE]: **Sec. 177.5. "Publicly owned**
- 6 **treatment works", for purposes of IC 13-18-3, has the meaning set**
- 7 **forth in 327 IAC 5-1.5-48.**
- 8 SECTION 2. IC 13-11-2-242.3 IS ADDED TO THE INDIANA
- 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE UPON PASSAGE]: **Sec. 242.3. "Upset", for purposes**
- 11 **of IC 13-18-12-8, means an exceptional incident in which there is**
- 12 **unintentional and temporary noncompliance with**
- 13 **technology-based permit effluent limitations because of factors**
- 14 **beyond the reasonable control of the permittee, and does not**
- 15 **include noncompliance to the extent caused by operational error,**
- 16 **improperly designed treatment facilities, inadequate treatment**
- 17 **facilities, lack of preventive maintenance, or careless or improper**
- 18 **operation.**
- 19 SECTION 3. IC 13-18-12-8 IS ADDED TO THE INDIANA CODE
- 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 21 UPON PASSAGE]: **Sec. 8. (a) If a publicly owned treatment works**
- 22 **permittee:**
- 23 **(1) determines that an upset has occurred in the publicly**
- 24 **owned treatment works that is likely to pose a threat to**
- 25 **human or animal life; or**
- 26 **(2) has knowledge of an imminent threat from a chemical or**
- 27 **other release to the collection system that is likely to cause an**

1 upset in the publicly owned treatment works that is likely to
 2 pose a threat to human or animal life;
 3 the permittee shall notify emergency response personnel of the
 4 department not more than two (2) hours after the determination
 5 under subdivision (1) or the acquisition of knowledge of an
 6 imminent threat under subdivision (2).

7 (b) If the department receives notification from a publicly
 8 owned treatment works permittee under subsection (a), the
 9 department:

10 (1) must notify all appropriate state and local government
 11 agencies;

12 (2) may provide technical assistance to the publicly owned
 13 treatment works as the department determines is necessary;
 14 and

15 (3) must, if the department determines that there is or may be
 16 a threat to human health or animal life, notify the affected
 17 news media;

18 not more than forty-eight (48) hours after receiving the notification
 19 under subsection (a).

20 SECTION 4. IC 13-30-6-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who
 22 intentionally, knowingly, or recklessly violates:

23 (1) environmental management laws;

24 (2) air pollution control laws;

25 (3) water pollution control laws;

26 (4) a rule or standard adopted by one (1) of the boards; or

27 (5) a determination, a permit, or an order made or issued by the
 28 commissioner under environmental management laws or IC 13-7
 29 (before its repeal);

30 commits a Class D felony.

31 (b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of
 32 a Class D felony under this section (or IC 13-7-13-3(a) before its
 33 repeal) may, in addition to the term of imprisonment established under
 34 IC 35-50-2-7(a), be punished by:

35 (1) a fine of not less than ~~two five~~ thousand ~~five hundred~~ dollars
 36 ~~(\$2,500)~~ **(\$5,000)** and not more than ~~twenty-five~~ **fifty** thousand
 37 dollars ~~(\$25,000)~~ **(\$50,000)** per day of violation; or

38 (2) if the conviction is for a violation committed after a first
 39 conviction of the person under this section (or IC 13-7-13-3(a)
 40 before its repeal), a fine of not more than ~~fifty one~~ **hundred**
 41 thousand dollars ~~(\$50,000)~~ **(\$100,000)** per day of violation.

42 SECTION 5. IC 13-30-6-3 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person who
 44 knowingly:

45 (1) transports any hazardous waste to a facility that does not have
 46 an operation permit or approval to accept the waste;

47 (2) disposes, treats, or stores any hazardous waste without having
 48 obtained a permit for the waste; or

49 (3) makes a false statement or representation in an application, a
 50 label, a manifest, a record, a report, a permit, or other document
 51 filed, maintained, or used under environmental management laws

1 with regard to hazardous waste;
 2 commits a Class D felony.

3 (b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of
 4 a Class D felony under this section may, in addition to the term of
 5 imprisonment established under IC 35-50-2-7(a), be punished by:

- 6 (1) a fine of **not less than two thousand five hundred dollars**
 7 **(\$2,500)** and not more than ~~twenty-five~~ **fifty** thousand dollars
 8 ~~(\$25,000)~~ **(\$50,000)** for each day of violation; or
- 9 (2) if the conviction is for a violation committed after a first
 10 conviction of the person under this section, IC 13-30-6-1,
 11 IC 13-30-6-2, or IC 13-7-13-3 (before its repeal), a fine of not
 12 more than ~~fifty one~~ **hundred** thousand dollars ~~(\$50,000)~~
 13 **(\$100,000)** per day of violation.

14 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
 15 **SECTION, "department" refers to the department of**
 16 **environmental management.**

17 (b) **The department shall prepare a report that includes the**
 18 **following:**

- 19 (1) **A comprehensive and detailed report that:**
 - 20 (A) **describes plans for restoration of the White River; and**
 - 21 (B) **sets forth the department's recommendations for**
 22 **changes in statutes, rules, or procedures and practices of**
 23 **the department to:**
 - 24 (i) **reduce the probability of contamination events; and**
 - 25 (ii) **improve the timeliness and efficiency of protocols and**
 26 **procedures for notice to affected entities if such an event**
 27 **occurs in the future.**
- 28 (2) **A complete list of all events of contamination of waters of**
 29 **the state after December 31, 1994, in which fish or other**
 30 **aquatic species were killed and in which civil penalties were**
 31 **imposed under IC 13-30-4 (or under the law that governed the**
 32 **imposition of civil penalties before the enactment of**
 33 **IC 13-30-4), including the following:**
 - 34 (A) **A description of the contamination event.**
 - 35 (B) **The date the contamination event occurred.**
 - 36 (C) **The entity on which the civil penalty was imposed.**
 - 37 (D) **The total amount of the civil penalty imposed.**

38 (c) **Before November 30, 2000, the department shall deliver the**
 39 **report described in subsection (b) to:**

- 40 (1) **the executive director of the legislative services agency for**
 41 **distribution to members of the legislative council;**
- 42 (2) **the environmental quality service council;**
- 43 (3) **the governor; and**
- 44 (4) **the lieutenant governor.**

45 (d) **The environmental quality service council shall:**

- 46 (1) **study the report delivered to it under subsection (c); and**
- 47 (2) **make recommendations to the general assembly before**
 48 **January 1, 2002."**

49 Page 2, line 14, after "needing to" insert "**make a**".

50 Page 2, line 19, delete "SECTION 1" and insert "**SECTION 7**".

51 Renumber all SECTIONS consecutively.

(Reference is to EHB 1343 as printed February 9, 2000.)

Conference Committee Report
on
Engrossed House Bill 1343

Signed by:

Representative Kuzman
Chairperson

Senator Gard

Representative Wolkins

Senator Simpson

House Conferees

Senate Conferees